Supreme Court, U. S.
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In The

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1977

No. 77-1659

THE CHASE MANHATTAN BANK, N.A. and CITIBANK, N.A.,

Petitioners,

v.

THE FINANCE ADMINISTRATION OF THE CITY OF NEW YORK AND THE FINANCE ADMINISTRATOR OF THE CITY OF NEW YORK,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE COURT OF APPEALS OF THE STATE OF NEW YORK

RESPONDENTS' SUPPLEMENTAL BRIEF

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SAMUEL J. WARMS,
of Counsel.

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RESPONDENTS' SUPPLEMENTAL BRIEF

ARGUMENT

This supplemental brief relates to material not involved, and hence not available at the time of the filing of our brief in opposition. That material is the citation by petitioners in their reply memorandum, of Bigelow v. Virginia, 421 U.S. 809 (1975), and the naming of two New England banks whose liability for the Commercial Rent tax is stated to be "still open".

Bigelow v. Virginia, supra, is erroneously cited in petitioners' reply memorandum as a case in which this Court granted certiorari after the repeal or amendment of the statute involved. This statement is erroneous. The Bigelow case was an appeal, as of right, and involved no granting of a writ of certiorari.

Allusion to the alleged disputes between the City and the two New England banks is unfortunate, for we cannot disclose what we know about these two banks because of a very strong secrecy provision in the taxing law, §L46-16.0 of the Administrative Code of the City of New York. Understandably, the affairs of these banks appear nowhere in the record. For, had petitioners sough to air those affairs at the administrative hearin

such evidence would have been irrelevant. If the City had produced any file relating to these banks the taxing officials and counsel would have been guilty of a violation of the secrecy provision.

See Taxation & Fin v. Dept of Law, 44 N Y 2d 575, 378 NE 2d 110 (1978).

We can state, as a result of a somewhat perfunctuory search, that there appears to be no file in the Department of Finance's records relating to New England Merchants National Bank. There is a file for The First National Bank of Boston.

We are unable to tell the Court anything of that bank because we are prevented from outlining the details relating to it by the provision in the Commerical Rent or Occupancy Tax Law (Administrative Code of the City of New York, §L46-16.0) which forbids our allusion to a given taxpayer's affairs.

CONCLUSION

The petition for a writ of certiorari should be denied.

Dated: September 7, 1978

Respectfully submitted,

ALLEN G. SCHWARTZ,
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Attorney for Respondents.

SAMUEL J. WARMS,
of Counsel.